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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,107	02/26/2004	Willis J. Mullet	WAY.P.US0098	7596
7590 09/28/2005			EXAMINER	
Phillip L. Kenner RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER First National Tower, Fourth Floor Akron, OH 44308-1456			JOHNSON, BLAIR M	
			ART UNIT	PAPER NUMBER
			3634	
DATE MAILED: 09/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,107

Applicant(s)

MULLET ET AL.

Examiner

Blair M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/28/04; 8/5/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Specification***

The disclosure is objected to because of the following informalities: The description of the horizontal track sections being joined by a U-shaped central body is inaccurate. As seen in Fig. 4, there is no space between portions 64 and 65, which would be required to define a "U".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 24 and 27-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 is rejected based on the recitation of a "U" shape, as discussed above. Regarding claim 27, redundant language appears on lines 3-4.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,8,9,13-20,23,24 and 33-35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kelly '391.

See panels 70,71, lower rollers on panels 70 and upper rollers 80. See vertical track 17, transitional track 18 and horizontal track 19. Transitional track 18 has a first

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track section 18, which joins with lower horizontal track section 83, and a second track section, 30, that joins upper horizontal track 84 along which rollers 80 roll. See reverse angles, either 16 or 22, with element 22 having a mounting flange which may be called a "flag angle" and which is attached "with" the header (structure at the top of the door). The axles of the rollers are the "panel extensions". See operator 44, etc. Regarding claim 24, the track system 17 is substantially U-shaped.

Claims 1-3,8-20,22,23,25 and ,33-35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wolf.

Wolf provides vertical track 61,80, transition tracks 72,59, and horizontal tracks 60,62, which, along with the vertical tracks, are of "one-piece construction" since they are directly connected. See reverse angle 58 and portion 80 provides a broad "extension and web" which spaces door stop (portion of 80 that has seal 102) therefrom. The flag angles are portions of counterbalance/operator 73.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf.

Regarding claim 21, rendering portion 63 as a bent or roll-formed element having a space defining a U would have been an obvious design choice based on the material and method of making the vertical track. The same is true of claim 24, although the U-shape is not properly disclosed, as discussed above.

Claims 4-7, 27-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly '391 in view of Hooford et al '814.

Hooford et al discloses a transitional track, Fig. 9 and additionally discussed in the abstract, which connects the horizontal and vertical track sections. It would have been obvious to modify Kelly whereby he has such "receiving channels" to join his similar separate elements, such providing a more secure connection.

Claims 4-7 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Hooford et al '814.

Hooford et al is applied here as above to Kelly.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Kelly '870.


Kelly provides tracks 35 which have upper and lower lips for securing the rollers therein. It would have been obvious to have such tracks in Wolf for this reason, resulting in lips that meet the limitations of claim 26.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Blair M. Johnson  
Primary Examiner  
Art Unit 3634

BMJ  
9/25/05